

VICTOR MOORE,

Plaintiff,

v.

CUMBERLAND COUNTY
BOARD OF FREEHOLDERS, et al.,

Defendants.

Civil Action 06-4516 (RMB)

MEMORANDUM AND ORDER

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In his submission, the Plaintiff states that he has been seriously hindered by the medical department of the correctional facility in which he is presently confined, Southern State Correctional Facility. He states that he is unable to obtain medical records that serve as proof of the extent of the injuries he has allegedly sustained.

Plaintiff, however, does not set forth, by affidavit, how the request to obtain these medical records demonstrates efforts to prosecute the action against the remaining Defendants. See Local Rule 41.1(a) of the Local Rules of the Court. As the Plaintiff states, he is seeking these documents as "rebuttal against the motion filed by the defendants." This Court finds that medical proof of his injuries does not defeat summary judgment. Proof by the Plaintiff of his sustained injuries does not address the elements of his claim as set forth in the Court's prior Order.

The Court notes, however, that the Plaintiff has set forth in his submission that he is in the process of "pursuing the assistance of private legal counsel." He requests a continuance of this matter, but does not request a certain period of time. The Court finds that given the inactivity in this case as to the remaining Defendants, the interests of justice would be better served by dismissing this case without prejudice, and allowing Plaintiff to reinstate the case in the event Plaintiff retains

counsel. Unless the Court hears from the Plaintiff to the contrary by March 14, 2008, the Complaint will be dismissed without prejudice as to Defendants Charleston, Morales, and McCado.

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge

Dated: March 7, 2008